

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MEDFORD DIVISION

STEVEN BLAYLOCK,
an individual,

Case No. 6:23-cv-00500-CL

Plaintiff,

OPINION AND ORDER

v.

STATE OF OREGON DEPARTMENT
OF CORRECTIONS; ZOLTAN TEGGLASSY,
in his individual capacity; and
THOMAS BRISTOL, in his individual capacity,

Defendants.

CLARKE, Magistrate judge.

This case comes before the Court on Plaintiff's Motion for Leave to File an Amended Complaint (ECF No. 37). The Court held oral argument on July 1, 2024. For the reasons below, Plaintiff's Motion is GRANTED and DENIED in part.

ISSUE

Plaintiff requests leave to file a First Amended Complaint ("FAC") with new factual allegations, defendants, claims, and images. The parties conferred on the proposed amendments, and Defendants' counsel agreed to the inclusion of the new allegations, defendants, and claims. Defendants oppose only the images. The sole issue for the Court's resolution is therefore whether Plaintiff may include images in the FAC.

STANDARD OF REVIEW

Under the Federal Rules, leave to amend should be “freely given” when justice so requires. Fed. R. Civ. P. 15. District courts, however, “need not grant leave to amend where the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile.” *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834, 845 (9th Cir. 2020) (quoting *AmerisourceBergen Corp. v. Dialysist W., Inc.*, 465 F.3d 946, 951 (9th Cir. 2006)); see also *Foman v. Davis*, 371 U.S. 178, 182 (1962) (noting that granting or denying leave to amend is within the discretion of the district court, but an “outright refusal to grant the leave without any justifying reason” is an abuse of discretion inconsistent with the spirit of the Federal Rules).

DISCUSSION

The Court denies the inclusion of the images in the FAC for the following reasons.

First, including the images is inconsistent with the federal rules of pleading. Federal Rule of Civil Procedure 8(a) requires a complaint to contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The images proposed here are not offered to plead facts. The FAC already contains well-pled allegations and the images do not provide any additional meaning. Rather, the photos serve as evidence. The Court finds that the inclusion of the images in the FAC is therefore inconsistent with the “short plain statement” contemplated by the federal rules.

Second, including the images is prejudicial to Defendants. Although it is likely that the photographs may be admitted as evidence, they are presently unauthenticated. Including them in the FAC allows unauthenticated evidence to enter the public record. The Court finds that the

photographs should first be subjected to authentication and an opportunity for objection before being made available on the record.

CONCLUSION

Plaintiff's Motion for Leave to File an Amended Complaint (ECF No. 37) is GRANTED and DENIED in part. The Motion is GRANTED as to the new allegations, defendants, and claims conferred and agreed upon by the parties. The Motion is DENIED in so far as it seeks to include images. The proposed images are to be removed from the FAC prior to filing. Defendants' Motion to Strike is denied as moot.

IT IS SO ORDERED and DATED this 9 day of July, 2024.



MARK D. CLARKE
United States Magistrate Judge